

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Term #71

CIVIL MINUTES - GENERAL

Case No.	CV 15-9692 PSG (Ex) CV 16-2724 PSG (Ex) CV 16-2725 PSG (Ex)	Date	April 4, 2017
Title	Consumer Financial Protection Bureau v. D and D Marketing, Inc. <i>et al.</i> Consumer Financial Protection Bureau v. Fomichev Consumer Financial Protection Bureau v. Gasparyan		

Present: The Honorable Philip S. Gutierrez, United States District Judge

Wendy Hernandez

Not Reported

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiff(s):

Attorneys Present for Defendant(s):

Not Present

Not Present

Proceedings (In Chambers): Order GRANTING Defendant Gasparyan's Motion to Consolidate for Pretrial Purposes Only

Before the Court is Defendant Davit Gasparyan's motion to consolidate pretrial proceedings in three related actions, *Consumer Financial Protection Bureau* ("CFPB") v. *D and D Marketing, Inc. d/b/a T3Leads et al.*, CV 15-9692 PSG (Ex); *CFPB v. Fomichev*, CV 16-2724 PSG (Ex); and *CFPB v. Gasparyan*, CV 16-2725 PSG (Ex). *See* CV 15-9692, Dkt. # 71; CV 16-2724, Dkt. # 48; CV 16-2725, Dkt. # 59. Plaintiff CFPB and the other Defendants, D and D Marketing, Grigor Demirchyan, Marina Demirchyan, and Dmitry Fomichev, do not oppose the motion to consolidate pretrial proceedings. *See, e.g.*, CV 15-9692, Dkt. # 71, 2:26–3:1; CV 15-9292, Dkt. # 78, 2:20–28. In its response to the motion to consolidate, however, Plaintiff asks the Court to expand the scope of the consolidation to include not only pretrial proceedings but trial as well. *See* CV 16-2725, Dkt. # 60.

Consolidation is appropriate when actions "involve a common question of law or fact." Fed. R. Civ. P. 42(a). "The Court has broad discretion to order consolidation," *Inv'rs Research Co. v. U.S. Dist. Court for Cent. Dist. of Cal.*, 877 F.2d 777 (9th Cir. 1989), and Federal Rule of Civil Procedure 42(a) provides for full or limited forms of consolidation, Fed. R. Civ. P. 42(a). In deciding whether to consolidate, the district court "weighs the saving of time and effort consolidation would produce against any inconvenience, delay, or expense that it would cause." *CSI Elec. Contractors, Inc. v. Zimmer Am. Corp.*, No. CV 12-10876 CAS (AJWx), 2013 WL 2251631, at *2 (C.D. Cal. May 22, 2013).

Because no party opposes Defendant Gasparyan's motion to consolidate pretrial proceedings and the Court finds that such consolidation would facilitate discovery and motion practice, avoid duplication, and facilitate coordination, the Court GRANTS Gasparyan's motion.

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The Court defers considering Plaintiff's broader invitation to consolidate not only the pretrial proceedings, but trial as well. Because Plaintiff raises this argument in a responsive pleading, rather than its own motion, the parties have not had an opportunity to address how a consolidated trial might affect Defendants' right to a fair and impartial adjudication. *See Malcolm v. Nat'l Gypsum Co.*, 995 F.2d 346, 350 (2d Cir. 1993) (quoting *Johnson v. Celotex Corp.*, 899 F.2d 1281, 1284–75 (2d Cir. 1990)). Moreover, courts regularly defer deciding whether to consolidate a case through trial until the parties have engaged in discovery that could clarify significant legal and factual differences among the parties. *See Rancho Agricola Santa Monica v. Westar Seeds Int'l, Inc.*, No. CV 08-1998 JM (JMAx), 2009 WL 3148756, at *3 (S.D. Cal. Sept. 29, 2009). Should Plaintiff continue to believe that consolidation for trial would advance judicial efficiency, Plaintiff may file a renewed motion to consolidate the matters for trial at any time before the deadline for filing motions.

Thus, the Court finds consolidation of the three cases appropriate for pretrial purposes only. Subsequent pleadings and motions shall be filed under the caption and case number of the first-filed case, *CFPB v. D and D Mktg. et al.*, CV 15-9692 PSG (Ex). The related cases, *CFPB v. Fomichev*, CV 16-2724 PSG (Ex), and *CFPB v. Gasparyan*, CV 16-2725, are administratively closed and may be reopened, if necessary, as the case progresses to trial.

IT IS SO ORDERED.